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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/797,920	03/09/2004	Kenneth L. Levy	P0951	3347
23735 7590 11/28/2007 DIGIMARC CORPORATION 9405 SW GEMINI DRIVE BEAVERTON, OR 97008				
EXAMINER				
STANLEY, MARK P				
ART UNIT		PAPER NUMBER		
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/797,920

Applicant(s)

LEVY, KENNETH L.

Examiner

Mark P. Stanley

Art Unit

4157

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-24 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-24 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. ____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SF/88)
Paper No(s)/Mail Date ____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date ____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: ____

DETAILED ACTION

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in—
(1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent; or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for the purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English.

2. Claim (1-20, 24) rejected under 35 U.S.C. 102(e) as being anticipated by Roesse et al. (US 2003/0217122 A1 hereinafter Roesse).

Regarding claim 1, Roesse discloses “a method of enforcing geographical restrictions on content redistribution in a TCP/IP network, an improvement comprising defining a geographical boundary across which certain content does not pass, wherein said boundary is defined—at least in part—by a hardware firewall device” ([0098], [0115]-[0118], Fig. 6, where [0098] describes the use of firewalls with devices sending and receiving content information, [0117] describes preventing the data from being transmitted at the point of transmission or at the point of reception depending on assigned restrictions of the data).

Regarding claim 2, Roesse discloses “the method of claim 1 that includes determining whether an IP packet should be regarded as conveying content that should

not cross said boundary, by reference to flag bits included in the header of said packet" ([0115]-[0118], Fig. 6, where step 620 in Fig. 6 is where data being transmitted is tagged with information about a boundary restriction, and [0116] describes the tagged information being a flag in the header of the data packets being transmitted).

Regarding claim 3, Roesse discloses "the method of claim 2 wherein said flag bits are related to the payload of a watermark in the content" ([0115], [0117], [0115] describes the location limitations of the data being transmitted as a result of the sensitivity of the data that is being transmitted, thus it is inherent the flag bits in the header that restricts the transfer of the sensitive data is dependent on the sensitivity of the body data, [0117] states that the data itself that is transmitted can contain authentication rules on itself, thus the body data can contain watermark information).

Regarding claim 4, the claim is rejected for the same reasons as claim 2 above, additionally it is inherent that a standardized IP packet includes a source and destination address in the IP packet header as control information.

Regarding claim 5, Roesse discloses "the method of claim 4 wherein the additional data has at least two states, respectively indicating: (a) it is not permissible to send a copy of data in the packet to any second destination address; or (b) it is not permissible to send a copy of data in the packet to any second destination address except to a second destination address within a domain that also includes the first

destination address" ([0115]-[0118], Fig. 6, describes preventing the data from being sent to any other destination, [0117] describes preventing data from being sent to any destination outside of a set domain, [0115] describes a device must be authorized to receive content not just based solely on location, it is inherent that no device may be authorized to receive the content no matter the device location).

Regarding claim 6, Roesse discloses "the method of claim 5 wherein said domain comprises networked devices associated with a single family" ([0098]-[0099], [0115], Fig. 1, Fig. 1 shows the domain comprising networked devices within a set family, where [0098]-[0099] describes the domain having varying limitations, such as limiting the domain to only networked devices or to devices additionally outside the network).

Regarding claim 7, Roesse discloses "the method of claim 4 wherein a device associated with the first destination address has a first physical location and a device associated with the second destination address has a second physical location, and the additional data includes a field signaling that copying of data in said packet to said second destination address should be: (a) permitted if the second physical location is physically proximate to the first physical location; and (b) prohibited if the second physical location is physically remote from the first physical location" ([0100]-[0103] describes the location limitation being a physical location limitation)

Regarding claim 8, Roesse discloses “the method of claim 7 wherein the first and second destination addresses are within a common domain” ([0100]-[0103], Fig. 1, Fig. 8, where the first and second destination devices can be within a common domain).

Regarding claim 9, Roesse discloses “the method of claim 7 wherein the first and second destination addresses both correspond to network devices associated with a single family” ([0100]-[0103], Fig. 1, Fig. 8, network devices allowed within the network may be limited to a single family).

Regarding claim 10, Roesse discloses “the method of claim 4 wherein said additional data is related to the payload of a watermark encoded in the body data” ([0115], [0117], [0115] describes the location limitations of the data being transmitted as a result of the sensitivity of the data that is being transmitted, thus it is inherent the additional data in the header that restricts the transfer of the sensitive data is dependent on the body data, [0117] states that the data itself that is transmitted can contain authentication rules on itself, thus the body data can contain watermark information).

Regarding claim 11, the claim is rejected for the same reasons as claim 4 above.

Regarding claim 12, the claim is rejected for the same reasons as claim 5 above.

Regarding claim 13, the claim is rejected for the same reasons as claim 6 above.

Regarding claim 14, the claim is rejected for the same reasons as claim 7 above.

Regarding claim 15, the claim is rejected for the same reasons as claim 8 above.

Regarding claim 16, the claim is rejected for the same reasons as claim 9 above.

Regarding claim 17, Roese discloses "the method of claim 14 wherein the method includes determining whether the second physical location is physically remote from the first physically location by reference to whether the second destination address is served by a common firewall with the first destination address ([0098] describes combining the use of a firewall with the physical locations of the devices, where it states a firewall makes determination of packets into and out of a network).

Regarding claim 18, the claim is rejected for the same reasons as claim 10 above.

Regarding claim 19, the claim is rejected for the same reasons as claims 2 and 4 above.

Regarding claim 20, the claim is rejected for the same reasons as claims 2 and 4 above.

Regarding claim 24, the claim is rejected for the same reasons as claims 2 and 4 above.

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

The factual inquiries set forth in **Graham v. John Deere Co.**, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows: (*See MPEP Ch. 2141*)

- a. Determining the scope and contents of the prior art;
- b. Ascertaining the differences between the prior art and the claims in issue;
- c. Resolving the level of ordinary skill in the pertinent art; and
- d. Evaluating evidence of secondary considerations for indicating obviousness or nonobviousness.

4. Claim (21-23) rejected under 35 U.S.C. 103(a) as being unpatentable over Roese et al. (US 2003/0217122 A1 hereinafter Roese) in view of Moskowitz (US 7,287,275 B2 hereinafter Moskowitz).

Regarding claim 21, Roese teaches the use of header information with packets for restricting distribution of data between devices based on network access regulations with the use of firewalls and physical location of the devices. But, Roese does not teach including content identification information in the header of the packet to more particularly or uniquely identify the content.

However, Moskowitz teaches the using of transmitting streams of content through the use of packets (col. 4, lines 35-67), where the header contains watermark information for identifying the content and authentication of the packet and content for transmission (col. 4, lines 55-57).

One of ordinary skill in the art at the time of the invention would have been motivated to modify the teachings of Roese with that of Moskowitz to better restrict and identify content being transmitted through a network.

Regarding claim 22-23, referring to the discussion on claim 21 above, Moskowitz teaches storing data in the form of packets in a storage medium with content identification (col. 5, lines 56-62, Official Notice is taken that data broken into blocks of information and then stored in a medium must be associated by some means for reconstruction, the use of an allocation table would have been obvious to one of ordinary skill in the art at the time of the invention).

Conclusion

5. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Pandya (US 2005/0108518 A1) – security system involving packet streaming and the use of firewalls with packet header information

Lee et al. (US 2003/0115146 A1) – detection of unauthorized use of DRM content

Schmelzer (US 2005/0154681 A1) – detection of unauthorized transmission of digital content

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Mark P. Stanley whose telephone number is (571) 270-3757. The examiner can normally be reached on 9:00AM - 5:00PM Mon-Fri EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Vu Le can be reached on (571) 272-7332. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Art Unit: 2600

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Mark P Stanley/

/Vu Le/
Supervisory Patent Examiner, Art Unit 4157
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